



California Fair Political Practices Commission

March 7, 1989

Douglas Murphy
Administrative Assistant
Grantland Johnson, Supervisor
1st District
Sacramento County
700 H Street, Suite 2450
Sacramento, California 95814

Re: Your Request for Advice
Our File No. A-89-088

Dear Mr. Murphy:

This is in response to your request for advice on behalf of Supervisor Grantland Johnson regarding the application of the mass mailing provisions of the Political Reform Act (the "Act").^{1/}

QUESTION

Does Supervisor Johnson's draft letter announcing a constituent meeting comply with the mass mailing provisions of the Act?

CONCLUSION

Supervisor Johnson's draft letter does not comply with the mass mailing provisions of the Act. Notice of a public meeting may be mailed to the constituents of an elected official only if (1) the meeting directly relates to the elected official's incumbent governmental duties and (2) the notice solely includes the time, date, place and a concise description of the subject matter of the public meeting.

^{1/} Government Code Section 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

FACTS

Supervisor Grantland Johnson is planning a special meeting for his constituents concerning the future of Rio Linda. To publicize this meeting, Supervisor Johnson will be mailing out notices on his official letterhead to his constituents. He anticipates mailing over 200 identical mailings that specify the date, time, site and subject matter of the meeting. The mailing also includes a four paragraph explanation of the meeting and the supervisor's personal invitation to attend. The text appears as follows:

Sacramento County, along with the Rio Linda/Elverta Planning Advisory Council, is just beginning the process of drafting a new plan for the Rio Linda/Elverta community. The plan will be used as the blueprint for future growth, parks, roads, etc.

I would like to hear your suggestions about what you want our community to look like in the future. Members of the local advisory council and Sacramento County Planning Department will be on hand to take down your suggestions and to explain the community plan update process.

Although this meeting will mainly be to discuss the future of the area, as your elected representative I am looking forward to hearing your concerns and suggestions about what County Government should be doing for you.

I am looking forward to meeting you on Thursday, February 23. I hope that you and your family can find the time to attend.

Thank you.

ANALYSIS

A mass mailing is defined in Section 82041.5 as two hundred or more substantially similar pieces of mail. Government Code Section 89001 provides that no newsletter or other mass mailing shall be sent at public expense. Read together and taken literally, these two sections could be construed to ban all mailings of 200 or more substantially similar documents at public expense. However, the Commission has adopted Regulation 18901 (copy

enclosed)^{2/} which sets out specific exceptions to the prohibition on mass mailings.

Regulation 18901 provides that a newsletter or other mass mailing may not be sent at public expense if:

(1) The name of the elected officer or his photograph appears on the document; and

(A) The elected officer exercises direction and control over the content, production, or distribution of the document, or

(B) The document is sent at the request or suggestion of the elected officer or his or her agent; or

(C) The document is signed by, or is designated as being from, the elected officer or his or her office....

Regulation 18901(c)(1).

Regulation 18901(e) provides an exception for use of an elected official's name in his or her letterhead:

(e) A newsletter or other mass mailing is not prohibited by Government Code Section 89001 if it meets all of the following criteria:

(1) The stationery, forms and envelopes used for the mailing are the standard stationery, forms and envelopes of the agency or committee of the agency; and

(2) The name of an elected officer who is affiliated with the agency or committee appears in the standard letterhead or logotype of the stationery, forms or envelopes of the agency, a committee of the agency, or the elected official and the newsletter or mass

^{2/} This regulation was adopted by the Commission at its December 6, 1988 meeting. It is under review with the Office of Administrative Law. We anticipate that it will be in effect on approximately April 1, 1989. We are advising that the regulation be followed while it is undergoing that review.

mailing is not otherwise prohibited under
subdivision (c).

Regulation 18901(e) (emphasis
added).

The stationery on which the supervisor's mailing is printed appears to comply with the provisions of Regulation 18901(e). This exception, however, is limited to the inclusion of the supervisor's name in the letterhead and not in the text itself. Thus, any reference or inference to the elected official in the body of the document is prohibited unless another exception applies.

The Constituent Meeting Exception

Regulation 18901(f)(8) provides an exception for mailings sent to the elected officer's constituents which directly relate to that elected official's incumbent governmental duties and which solely include the time, date, place, and a concise description of the subject matter of a public meeting to be held by the elected officer. In addition, the name of the elected official may be used once in the concise description of the subject matter.

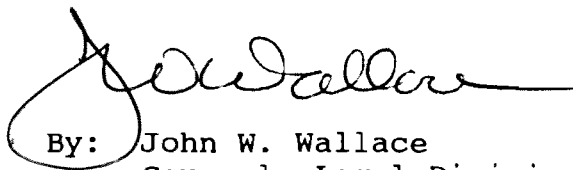
The purpose of this exception is to allow elected officials to notify their constituents of public meetings held by the elected official. In reviewing your mailing it is apparent that the text goes beyond the restrictions of the regulation. In addition to the time, date, place, and a concise description of the subject matter, the supervisor repeatedly refers to himself in the text. Moreover, the latter three paragraphs of the letter focus more on the goals of the supervisor than the subject matter of the meeting.

The text of the letter, therefore, does not meet the restrictions in Regulation 18901(f)(8), and cannot be sent as a mass mailing.

If I can be of any further assistance to you, please feel free to contact me at (916) 322-5901.

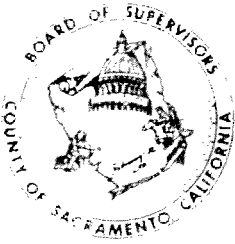
Sincerely,

Diane M. Griffiths
General Counsel



By: John W. Wallace
Counsel, Legal Division

DMG:JWW:plh
Enclosures



FEB 2 4 24 PM '89

**BOARD OF SUPERVISORS
COUNTY OF SACRAMENTO**
700 H STREET, SUITE 2450 • SACRAMENTO, CA 95814

GRANTLAND JOHNSON
SUPERVISOR, FIRST DISTRICT
(916) 440-5485

February 2, 1989

John Wallace
Fair Political Practices Commission
428 J Street, Ste. 800
Sacramento, CA 95814

Mr Wallace:

I would appreciate it if you could confirm what you spoke to during our telephone conversation earlier today.

In response to my question asking if Supervisor Grantland Johnson could mail out an invitation to more than 200 of his constituents inviting them to attend a public town hall meeting on the same letterhead that this letter is written (it includes the supervisor's name), you advised me that this was permitted.

In reliance on what you have told me, Supervisor Johnson will be placing such an invitation in the mail on February 8, 1989. If for any reason I have misunderstood your advise, would you please contact me before Wednesday, February 7, 1989.

Cordially,

DOUGLAS MURPHY
Administrative Assistant
District 1

FEB 26
FEB 2 4 26 PM '89

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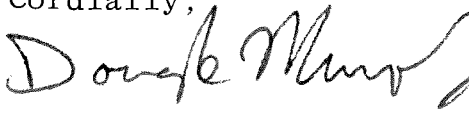
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